IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
FRIDAY, THE EIGHTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY
WRIT PETITION NO : 18692 of 1999

Between:

1. P.Venkateswara Rao, S/o.Ramana, Age:50 Yrs., Cultivation.

2. P.Ganga Ratnam, W/o. late Krishna, Age:45 Yrs., Cultivation.

3. P.Somalamma, W/o.Ramana, Age:70 Yrs., Cultivation.

(Petitioners are R/o.Akkampet, Jangareddy Gudem Mandal, West Godavari District.

.....
PETITIONERS

AND

1. Special Deputy Collector (Tribal Wing), K.R. Puram, Buttayagudem Mandal. West Godavari District.
2. Special Deputy Tahsildar (Tribal Wing), No.1/K.R.Puram, Buttayagudem Mandal, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ, order or direction questioning the action of the respondents in filing a complaint in S.R.No.27 of 1999 on the file of the first respondent stating that we are in possession and enjoyment of the land in contravention of the provisions of Regulation 1 of 1959 as amended by Regulation 1 of 1970 even though there is no such contravention as per the orders of the first respondent dated 25-04-1996 in S.R.No.76 of 1994 and 87 of 1994 as illegal, arbitrary and unconstitutional and pass such other order or orders.

Counsel for Petitioners :MR.K.CHIDAMBARAM

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following Order:

Second respondent filed a complaint against the petitioners in S.R.Nos.76 of 1994 and 87 of 1994 alleging that the petitioners are in possession and enjoyment of an extent of Ac.3.81 cents in R.S.No.25 and Ac.3.64 cents in R.S.No.47 of Marlagudem village, in contravention of sub section (1) of Section 3 of Andhra Pradesh Scheduled Area Land Transfer Regulation 1 of 1959, as amended by Regulation 1 of 1970 and the same was disallowed by the first respondent through orders, dated 25-04-1996. It is stated surprisingly that the first respondent issued a notice directing the petitioners to appear for the enquiry in S.R.No.27 of 1999. Challenging the said notice, the present writ petition is filed.

Learned Counsel for the petitioners, while reiterating the submissions made in the affidavit filed in support of the writ petition, contended that when once the first respondent after conducting an elaborate enquiry, disallowed the claim stating that the petitioner has not contravened the provisions of Andhra Pradesh Scheduled Area Land Transfer Regulation 1 of 1959 as amended by Regulation 1 of 1970, the question of registering another complaint and calling for enquiry again does not arise. He further contended that the persons at whose instance the complaint was registered were not made parties in S.R.No.27 of 1999, which was filed for the same relief. Therefore, issuance of notice to appear again for the enquiry on the complaint received, is arbitrary and illegal and the same cannot be proceeded with.

Having heard the learned Counsel for both parties and having perused the material on record, it is evident that the case in which notice was issued on the complaint made by third party, who has not been impleaded as party respondent to this writ petition. It is not the case of the petitioner that he is not a party to the complaint in S.R.No.27 of 1999.

In view of the same, any order passed in the writ petition will not bind the complainant and if the land belongs to the complainant, which is occupied by the petitioner, it is always subject to enquiry. Hence, I do not see that the impugned notice suffers from any infirmities and it cannot be said that the first respondent will not have jurisdiction to proceed with the enquiry, if a complaint is made.

Accordingly, the writ petition fails and is dismissed. However, Status quo with regard to the possession shall be maintained by both the parties till the enquiry is completed. No costs.

_____

18-06-2004

kdl/Murthy

To

1. The Special Deputy Collector (Tribal Wing), K.R.Puram, Buttayyagudem Mandal, West Godavari District

2. The Special Deputy Tahasildar (Tribal Wing), No.1/K.R.Puram, Buttayyagudem Mandal, West Godavari District.

3. Two CCs to the G.P. for Social Welfare, High Court Buildings, A.P., Hyderabad (OUT)

4. Two CD copies.

Sd/- XXX
..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To
1.2CCs to
2.2CD copies

Form-NIC-OGS/WP{ }